THE HONOURABLE SRI JUSTICE T.CH. SURYA RAO

AND

THE HONOURABLE SRI JUSTICE G. CHANDRAIAH

W.P. No.23624 of 2006

ORDER: (Per Hon'ble Sri Justice T.CH. Surya Rao)

Heard both the learned counsel.

The instant writ petition arises out of an interlocutory order dated 23-10-2006 passed by the learned Special Court in I.A. No.983 of 2006 in L.G.C. No.69 of 2001.

The grievance of the writ petitioner seems to be that the Commissioner has not given any opportunity to represent the matter before him and they filed serious objections *qua* the report submitted eventually by the Commissioner.

The learned Special Court in its impugned order had observed that the report of the Commissioner could be considered after taking into consideration of the objections filed on the side of the petitioners and the report of the Commissioner should be assessed after duly hearing the respective contentions of both the sides and in the light of other evidence and the material on record. Having observed so, on the premise that the application filed by the petitioners is vexatious, it eventually dismissed the said application. The learned Special Court has not visualized the contingency that after hearing the objections filed on the side of the petitioners and as the case may be on the side of the respondents, if it warrants redirection of the matter to the Commissioner to answer those objections it would procrastinate the eventual adjudication of the main case. If for any reason, the

Commissioner were to be redirected after taking into consideration the respective objections, the whole effort in hearing the arguments would go waste. It is always expedient to hear the objections filed on the side of the Commissioner when they are of serious nature and decide the same before proceeding further in the main case, unless the Court is of the view that the objections raised on either side are of trivial nature.

As regards the objections on the side of the petitioner that the Advocate Commissioner appointed in L.G.C. No.215 of 1995 by the Assistant Director Survey and Land Records, Ranga Reddy District, *inter alia,* in his report observed that Survey No.55 of Uppal Village and Mandal belongs to the applicants herein, if such an observation has been there in the report, it is always open to the petitioner to examine the Commissioner as a witness on his side and get the report of the Commissioner marked in the case. It is quite surprising that such a course has not been followed by the applicant earlier and allowed the respondents to lead evidence. Anyway, the Court is interested in effective adjudication of the case but not on the laches on the side of either party to the proceeding.

In that view of the matter, it is appropriate to direct the learned Special Court to advert to the objections filed by the petitioner and adjudicate the same first, before proceeding further hearing the arguments in the main L.G.C. case.

The Writ Petition is disposed of in the light of the said observation. No order as to costs.

-

_____

T. CH. SURYA RAO, J

Date: 11-12-2006

_____

G. CHANDRAIAH, J

LSK